

PSJ18 WALGREENS Opp Exh 31

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF OHIO
3 EASTERN DIVISION

4 -----)
5 IN RE: NATIONAL) MDL No. 2804
6 PRESCRIPTION OPIATE)
7 LITIGATION) Case No.
8 -----) 1:17-MD-2804
9)
10 THIS DOCUMENT RELATES TO) Hon. Dan A. Polster
11 ALL CASES)
12 -----)

13 HIGHLY CONFIDENTIAL
14 SUBJECT TO FURTHER CONFIDENTIALITY REVIEW

15 VIDEOTAPED DEPOSITION OF
16 TOMSON GEORGE
17 January 14, 2019
18 Chicago, Illinois

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21
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1 BY THE WITNESS:

2 A. I don't know of anyone that would be
3 specifically monitoring any increase in oxycodone
4 specifically.

5 BY MR. GADDY:

6 Q. Do you know of any department or piece
7 of software that would be monitoring such an
8 increase in volume?

9 MR. BENSINGER: Objection; compound,
10 foundation.

11 BY THE WITNESS:

12 A. I mean, it would be outside of my
13 general knowledge base in my role at the company
14 for me to know that type of information.

15 BY MR. GADDY:

16 Q. And at the time that this increase is
17 happening, the 2010 with three Walgreens pharmacies
18 in the top 100, 2011, 38 Walgreens pharmacies in
19 the top 100, and 2012, 44 Walgreens pharmacies in
20 the top 100, as far as oxycodone prescriptions go,
21 during that time period the good faith dispensing
22 program and the drug utilization review are in
23 effect, correct?

24 A. That's my understanding.

1 Q. And at least for some of that time
2 period the Florida PDMP is in effect?

3 A. If the Florida PDMP started in 2011,
4 that would be correct.

5 Q. Those programs, the good faith
6 dispensing, the drug utilization review and the
7 PDMP, again, assuming it's in place in a particular
8 state, would those same three programs be the same
9 safeguards that were in place regardless of what
10 state we're looking at?

11 A. I think two for sure and then the PDMP
12 if one was active in that state.

13 Q. Okay. So, the good faith dispensing and
14 the drug utilization review would have been the
15 safeguards in place in all 50 states and then
16 potentially a PDMP?

17 A. Yeah, around dispensing purposes,
18 correct.

19 Q. That would be the same answer if we're
20 talking about Ohio, correct?

21 A. Yep.

22 Q. Same answer if we're talking about West
23 Virginia?

24 A. I don't -- well, West Virginia,

1 depending on the timing, we also have some of those
2 ID requirements. I forgot when that was
3 implemented as well. That could have been an
4 additional element.

5 Q. If you look at paragraph 5, it says,
6 "According to DEA records, in 2011, Walgreens
7 operated 7,862 retail pharmacies in the
8 United States. Sixteen of the top 25 largest
9 Walgreens retail oxycodone purchasers, included the
10 top 6 purchasers" -- excuse me -- "including the
11 top 6 purchasers, were in Florida and supplied by
12 Respondent. The following table shows these six
13 stores and their yearly oxycodone purchases for
14 2009 through 2011."

15 Do you see that and then do you also see
16 the chart on the following page?

17 A. I do.

18 Q. Okay. And do you understand the
19 information that this -- that this -- that this
20 chart is relaying and how it's set up as far as the
21 store location in the left-hand column and then the
22 oxycodone purchases by dosage unit for each of the
23 three years in the next three columns?

24 A. Yeah, I do see those headings.

1 Q. And for the first store there in Hudson,
2 Florida, it looks like in 2009 they purchased
3 388,000 dosage units of oxycodone.

4 Do you see that?

5 A. Yes, I do.

6 Q. And the following year, 2010, they
7 purchased 913,000 dosage units, correct?

8 A. I see that.

9 Q. And in 2011, that same store purchased
10 over 2.2 million dosage units of oxycodone,
11 correct?

12 A. I do see that.

13 Q. Would you agree with my very rough math
14 that it looks like that's approximately a 5 times
15 increase in oxycodone purchases from 2009 to 2011?

16 A. In that range, yeah.

17 Q. And that occurred while this pharmacy
18 had a good faith dispensing program, correct?

19 A. Again, I don't remember exactly which
20 year the good faith dispensing policy started, but
21 at some point I would expect that would be in
22 place.

23 Q. This occurred while this pharmacy had
24 the drug utilization review, correct?

1 A. That's correct.

2 Q. And assuming the PDMP went into place in
3 2011, at least a portion of it had the benefit of
4 the PDMP also?

5 A. That makes sense.

6 Q. If you look at the second entry there
7 for the Fort Myers store, 3099, you see that in
8 2009 they had 95,000 purchases of -- or excuse
9 me -- 95,000 dosage units of oxycodone that they
10 purchased, correct?

11 A. I do.

12 Q. In 2010, they purchased 496,000 dosage
13 units of oxycodone, correct?

14 A. I do.

15 Q. And, again, in 2011, it looks like they
16 purchased over 2.1 million dosage units of
17 oxycodone.

18 Do you see that?

19 A. I do see that.

20 Q. And, again, just using very, very rough
21 math, would you agree that's approximately a 20
22 times increase in the number of oxycodone dosage
23 units being purchased from 2009 to 2011?

24 A. In that range, yes.

1 Q. And, again, this would have been while
2 Walgreens good faith dispensing program and the
3 drug utilization review and at least a little bit
4 of the prescription drug monitoring program were in
5 place, correct?

6 A. That is correct.

7 Q. I promise we won't look at all of them,
8 but this will be the last one we do.

9 But do you see No. 3, store 06997 for
10 Oviedo, Florida, in 2009 they ordered 80,000 dosage
11 units of oxycodone?

12 A. I see that.

13 Q. And in 2010 that went up to 223,000. Do
14 you see that?

15 A. I do see that.

16 Q. And that in 2011 it went up to over
17 1.6 million dosage units of oxycodone.

18 Do you see that?

19 A. I do.

20 Q. About how many times did those -- the
21 dosage unit of oxycodone purchased increased from
22 '09 to '11 with that particular store?

23 MR. BENSINGER: Objection; vague.

24 BY THE WITNESS:

1 A. Are you asking me to divide 1.6 million
2 by 80,000 roughly?

3 BY MR. GADDY:

4 Q. Roughly 16-time increase. Does that
5 sound about right?

6 A. Yeah, I -- I don't want to get hung up
7 on math, but it's an increase.

8 Q. You've got no reason to dispute at least
9 a 16-time increase in oxycodone dosage units going
10 to this particular Walgreens pharmacy from 2009 to
11 2011, do you?

12 A. Yes.

13 Q. And, again, just like the other two,
14 this would be while Walgreens' good faith
15 dispensing program was in place, while the drug
16 utilization review was in place and at least a
17 portion of it would have been while the Florida
18 PDMP was in place, correct?

19 A. That's correct.

20 Q. Did you, prior to us looking at this
21 information in this chart just now within this
22 Order to Show Cause that was issued by the DEA, did
23 you have any understanding that this amount of
24 oxycodone and this much of an increase of oxycodone